

SERVED: March 4, 1993

NTSB Order No. EA-3810

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 18th day of February, 1993

---

JOSEPH DEL BALZO,	)	
Acting Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-9974
v.	)	
	)	
JEAN-MARIE ROBERT,	)	
	)	
Respondent.	)	
	)	

---

**OPINION AND ORDER**

The Administrator has appealed from the oral initial decision of Administrative Law Judge Patrick G. Geraghty, issued on April 26, 1990, following an evidentiary hearing.<sup>1</sup> Respondent has not replied. The law judge, in affirming the order of the Administrator, found that respondent violated 14 C.F.R. 91.89(a)(1). The law judge, however, reduced the period of

---

<sup>1</sup>The initial decision, an excerpt from the hearing transcript, is attached.

suspension ordered by the Administrator from 30 to 15 days. We grant the Administrator's appeal of this reduction in sanction.<sup>2</sup>

In Administrator v. Muzquiz, 2 NTSB 1474 (1975), we held that, where the law judge has affirmed all violations alleged in the Administrator's complaint, a reduction in the sanction requires that the law judge offer clear and compelling reasons.<sup>3</sup>

In this case, the Administrator's order of suspension alleged only that respondent had violated § 91.89(a)(1). The law judge found that this allegation had been proven. Thus, the foundation for application of Muzquiz was laid, yet the law judge reduced the sanction by half.

In doing so, he stated:

I am not familiar with any case and I did look for some cases dealing specifically with this regulation alone. I have been not [sic] able to find any sort of adequate Board precedent.

I, therefore, looking at the facts and circumstances of this case, the somewhat amorphous standards, to be generous, I believe that a period of suspension of 15 days would be more than adequate in this case . . . .

Tr. at 67.

Nothing in this discussion offers the clear and compelling reasons needed to amend the sanction. The "facts and

---

<sup>2</sup>Respondent also appealed the law judge's ruling. His appeal, however, has been dismissed. NTSB Order EA-3227 (1990). In that order, we erroneously stated that the Administrator had not appealed from the sanction modification. Id. at note 2.

<sup>3</sup>"[I]n those cases in which all of the violations are affirmed, we believe it is incumbent on the law judge to offer clear and compelling reasons for reducing the sanction." Id. at 1477.

circumstances" of the case and "the somewhat amorphous standards" are not specified, and therefore can carry no weight. And, contrary to the law judge's statement, precedent supports a 30-day suspension. See Administrator v. Dibble, 5 NTSB 352 (1985).<sup>4</sup>

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's appeal is granted;
2. The 30-day suspension of respondent's airline transport pilot certificate shall begin 30 days from the date of service of this order.<sup>5</sup>

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

---

<sup>4</sup>Indeed, a lack of clear precedent arguably would support, rather than undermine, deferring to the Administrator's choice of sanction.

<sup>5</sup>For the purposes of this order, respondent must physically surrender his certificate to an appropriate representative of the FAA pursuant to FAR § 61.19(f).